

**DURHAM, NORTH CAROLINA
MONDAY, JANUARY 4, 1999
7:30 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chamber at City Hall with the following members present: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Absent: None.

Also present: City Manager P. Lamont Ewell, City Attorney Henry Blinder, City Clerk Margaret M. Bowers and Deputy City Clerk D. Ann Gray.

Mayor Tennyson called the meeting to order and at this time, a proclamation was read from Governor James B. Hunt proclaiming "Martin Luther King Jr. Day" on Monday, January 18, 1999.

The Mayor asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Ewell introduced members of the newly formed Citizens Review Board. Lieutenant Colonel Fletcher briefed council on the recent shootings in downtown Durham. He stated the owner of the Power Company [a nightclub near the site of the incident] has agreed to to hire additional off-duty police officers to provide security.

There were no priority items from the City Attorney and City Clerk.

Mayor Tennyson asked if any council member(s) or citizen(s) wanted to pull any item(s) from the Consent Agenda. **[No items were pulled]**

MOTION by Council Member Larson seconded by Council Member Cox to approve the Consent Agenda as printed was approved at 8:13 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

[CONSENT AGENDA]

SUBJECT: BID REPORT FOR OCTOBER 1998

MOTION by Council Member Larson seconded by Council Member Cox to approve and record in the minutes bids and items displayed in the attachment which were acted upon by the City Manager during the month of October 1998 was approved at 8:13 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and

Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

[See Attachment #1 for itemized bid report]

SUBJECT: BID REPORT FOR NOVEMBER 1998

MOTION by Council Member Larson seconded by Council Member Cox to approve and record in the minutes bids and items displayed in the attachment which were acted upon by the City Manager during the month of November 1998 was approved at 8:13 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

[See Attachment #2 for itemized bid report]

SUBJECT: CONFIRMATION OF ASSESSMENT ROLLS - SETTING PUBLIC HEARINGS

MOTION by Council Member Larson seconded by Council Member Cox to adopt resolutions setting public hearings on Tuesday, January 19, 1999 for confirmation of the following Assessment Rolls was approved at 8:13 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

- a. **Water Main - Lyckan Park Way** from west property line of Tax Map 465-1-4A to east property line of Tax Map 465-1-10;
- b. **Water Main - Faith Drive** from Cheek Road to Folkston Drive; and
- c. **Sewer Main - Cooksbury Drive** from cul-de-sac to East Geer Street; **East Geer Street** from Cooksbury Drive to Red Mill Road; and **Red Mill Road** from East Geer Street to Gorman Church Road.

[GENERAL BUSINESS AGENDA]

[PUBLIC HEARINGS]

SUBJECT: Water Main - Longleaf Drive from North Property Line of Tax Map 825-1-47 to Donphil Road

To receive citizens' comments on the proposed improvement.

To adopt a resolution ordering water main on Longleaf Drive from north property line of Tax Map 825-1-47 to Donphil Road.

Lee Murphy of the Public Works Department stated they have received objections to this improvement. He requested that this matter be continued without further advertising to the January 19, 1999 City Council Meeting and referred to the Public Works Committee.

MOTION by Council Member Larson seconded by Council Member Miller to continue the public hearing without further advertising to the January 19, 1999 City Council Meeting and to refer this item to the Public Works Committee was approved at 8:14 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

SUBJECT: ZONING MATTER CASE P98-60, H. AND P. POTEAT, FARRINGTON ROAD HOTEL

Case: P98-60

Applicant: H. and P. Poteat, Farrington Road Hotel

Location: 3.05 acres on the east side of Farrington Road, south of NC Highway 54 Tax Map 488-A-1-1A (Partial)

Request: Rezoning from NC (Neighborhood Commercial) to OI-2(D) (General Office and Institutional with a Development Plan); F/J-B (Falls/Jordan Protected Area) and MTC (Major Transportation Corridor)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of NC and placing same in and establishing same as OI-2(D); F/J-B and MTC.

Zoning Committee's Recommendation and Vote: Approval 5-2

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Gregory Gill, representing the applicant, spoke in support of the request. Mr. Gill briefed council on the proposed project.

No one spoke in opposition. Mayor Tennyson closed the public hearing.

A motion was made by Mayor Pro Tempore Clement to approve the rezoning request. This motion was seconded by Council Member Larson.

For the record, Dick Hails, of the City/County Planning Department, asked the developer to clarify that the sketch showing the elevation of the building was illustrative in nature and subject to some final design changes if the request is approved.

Gregory Gill replied that the sketch was illustrative in nature.

Council Member Miller questioned the two negative votes cast by members of the Zoning Committee.

Neil Heinberg, of the City/County Planning Department, stated the current traffic on Highway 54 was a concern of Mr. Holt and Mr. McKeel questioned the conformance of the proposal with the adopted plans.

Council Member Blyth questioned if the applicant met with any of the neighborhoods on this proposal.

Mr. Poteat, the applicant, stated they tried to contact persons and found no interest from any of the residential neighborhoods.

A substitute motion was made by Council Member Blyth to defer this request for one cycle to make certain the neighborhoods have an opportunity to comment. This motion was seconded by Council Member McKissick.

Several Council Members spoke in opposition to the substitute motion. It was noted that the applicant did make an effort to contact the residents in the area and received no response.

SUBSTITUTE MOTION by Council Member Blyth seconded by Council Member McKissick to defer this request for one cycle to make certain the neighborhoods have an opportunity to comment **FAILED** at 8:46 p.m. by the following vote: Ayes: Council Members Blyth, Brown, Burnette, Engelhard, McKissick and Miller. Noes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Langley, Cox, Jacobs, Larson and Griffin. Absent: None.

MOTION by Mayor Pro Tempore Clement seconded by Council Member Larson to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of NC and placing same in and establishing same as OI-2(D); F/J-B and MTC was approved at 8:46 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Brown, Burnette, Cox, Engelhard, Griffin,

Jacobs, Langley, Larson, McKissick and Miller. Noes: Council Member Blyth. Absent: None.

SUBJECT: ZONING MATTER CASE P98-76, NCCU FOUNDATION, EAGLE COMMONS RETAIL CENTER, PILOT AND FAYETTEVILLE STREETS

Case: P98-76

Applicant: NCCU Foundation, Eagle Commons Retail Center

Location: 2.99 acres at the northwest corner of Pilot and Fayetteville Streets (Tax Map 85-1-12A)

Request: Rezoning from NC (Neighborhood Commercial) to GC (General Commercial)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of NC and placing same in and establishing same as GC.

Zoning Committee's Recommendation and Vote: Approval 7-0

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

George Williams, representing the applicant, spoke in support of the request.

No one spoke in opposition. Mayor Tennyson closed the public hearing.

Council Members Blyth, Burnette and McKissick raised concern that the applicant did not submit a development plan.

Mayor Pro Tempore Clement informed the council that Mr. Williams was his brother-in-law; however, he had no financial interest in this matter and would be voting in support of the request.

MOTION by Council Member Larson seconded by Council Member Griffin to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of NC and placing same in and establishing same as GC was approved at 9:25 p.m. by the following vote: Ayes:

Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Brown, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: Council Members Blyth and Burnette. Absent: None.

SUBJECT: REPORT FROM THE TAXICAB COMMISSION

To receive a report from the Taxicab Commission and to take action on the recommendations of the Taxicab Commission--pursuant to Section 22.159.10 of the Durham City Code as follows:

a. Transfer of Operator's Licenses

1) Transfer of Smokey's #114 (George McFadden) to JeNeise Harris

Taxicab Inspector's Recommendation: Approve the transfer of Operator's License #114 (in accordance with City Code)

Taxicab Commission's Recommendation: Approve the transfer of Operator's License #114. (Vote 3-0)

MOTION by Council Member Miller seconded by Council Member Griffin to approve the Taxicab Commission's recommendation [approve the transfer of operator's license #144] was approved at 9:27 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

2) Transfer of Weeks' #74 (Willie Weeks, III) to Adil Mohamed

Taxicab Inspector's Recommendation: Approve the transfer of Operator's License #74 (in accordance with City Code)

Taxicab Commission's Recommendation: Approve the transfer of Operator's License #74. (Vote 3-0)

MOTION by Council Member Miller seconded by Council Member Griffin to approve the Taxicab Commission's recommendation [approve the transfer of operator's license #74] was approved at 9:27 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

b. Late Payment/Cancellation of Vehicle Insurance

1) REM Cab Company #52 and #53 (Ralph McCoy)

Taxicab Inspector's Recommendation: Revoke Operator's Licenses #52 and #53 (in accordance with City Code)

Taxicab Commission's Recommendation: Allow Ralph McCoy to retain Operator's Licenses #52 and #53 (Vote 3-0)

MOTION by Mayor Pro Tempore Clement seconded by Council Member Miller to approve the Taxicab Commission's recommendation [allow Ralph McCoy to retain operator's licenses #52 and #53] was approved at 9:28 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, McKissick and Miller. Noes: Council Member Larson. Absent: None.

2) Kenan's Cab Company #167 (Donald Kenan)

Taxicab Inspector's Recommendation: Revoke Operator's License #167 (in accordance with City Code)

Taxicab Commission's Recommendation: Allow Donald Kenan to retain Operator's License #167. (Vote 3-0)

MOTION by Mayor Pro Tempore Clement seconded by Council Member Miller to approve the Taxicab Commission's recommendation [allow Donald Kenan to retain operator's license #167] was approved at 9:28 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, McKissick and Miller. Noes: Council Member Larson. Absent: None.

SUBJECT: MAYOR'S NOMINATION TO THE DURHAM CONVENTION & VISITORS BUREAU BOARD OF DIRECTORS

MOTION by Council Member Larson seconded by Council Member Jacobs to approve the Mayor's nomination of John P. Bond, III to the Durham Convention & Visitors Bureau Board of Directors for a term to expire October 30, 2001 was approved at 9:28 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

SUBJECT: AGREEMENT FOR GOVERNMENT AFFAIRS SERVICES WITH CAPITOL LINK, INC.

MOTION by Council Member Larson seconded by Council Member Miller to receive a report from the Administration regarding the Agreement with Capitol Link, Inc. was approved at 9:28 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

SUBJECT: PROPOSED SALE OF PORTION OF PROPERTY ON CITY TRACT #1601 TO THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT)

MOTION by Council Member Larson seconded by Council Member Miller to accept the offer of \$8,500.00 from NCDOT to purchase .16 acre in fee simple for right-of-way on property located on City Tract #1610, Tax Map 619-01-003, and to authorize the Mayor to execute the deed that conveys the property was approved at 9:28 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

SUBJECT: PROPOSED ACQUISITION FOR STADIUM DRIVE EXTENSION, PROPERTY OF JOSEPH G. STONE AND WIFE KIMBERLY B. STONE - 3727 KENMORE ROAD

MOTION by Council Member Larson seconded by Council Member Miller to approve the acquisition of property, land and improvements, of Joseph G. Stone and Wife Kimberly B. Stone located at 3727 Kenmore Road, contingent upon an appraisal, by an independent fee appraiser, with a value equal to or greater than \$136,000.00 was approved at 9:29 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

SUBJECT: PROPOSED ACQUISITION FOR MARTIN LUTHER KING, JR. PARKWAY, PROPERTY OF CHARLES R. SKINNER, III AND WIFE MARY T. SKINNER - 3408 HOPE VALLEY ROAD AND PROPERTY OF ELMER C. THOMPSON AND WIFE AMELIA THOMPSON

MOTION by Council Member Larson seconded by Council Member Miller to approve the acquisition of a construction easement containing approximately 8,775 square feet located at 3408 Hope Valley Road, Tax Maps 415-07-002,003, and 004, property of Charles R. Skinner, III and Wife Mary T. Skinner, with the total of payment being \$34,100.00; and the acquisition of a construction easement containing approximately 6,787 square feet located along Hope Valley Road, Tax Maps 272-01-001, 415-07-001, and 005, property of Elmer C. Thompson and Wife Amelia Thompson, with the total of payment being \$42,800.00 was approved at 9:29 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

SUBJECT: VOLUNTARY ANNEXATION PETITIONS - STONE ROAD INDUSTRIAL PARK, UMSTEAD ROAD SUBDIVISION, COUNTRY CLUB HEIGHTS, AND AUMAN PROPERTY

MOTION by Council Member Larson seconded by Council Member Miller to receive a report from the Administration on the following voluntary annexation petitions:

- a. FY 99-06 - Stone Road Industrial Park
- b. FY 99-08 - Umstead Road Subdivision
- c. FY 99-09 - Country Club Heights
- d. FY 99-11 - Auman Property; and

To accept the City Clerk's certification of 100% ownership as required by N.C. General Statutes 160-58 and 160A-31 for each of the petitions; and

To adopt resolutions setting public hearings on Tuesday, January 19, 1999, at 7:30 p.m. to consider the annexation of Stone Road Industrial Park, Umstead Road Subdivision, County Club Heights, and Auman Property was approved at 9:29 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

Resolution #8521
Resolution #8522
Resolution #8523
Resolution #8524

SUBJECT: 1999-2000 CONSOLIDATED PLAN NEEDS PUBLIC HEARING

MOTION by Council Member Larson seconded by Council Member Miller to adopt a "Resolution to Set the 1999-2000 Consolidated Plan Needs Public Hearing" on Tuesday, January 19, 1999 was approved at 9:29 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

Resolution #8525

SUBJECT: STREET CLOSING (SC98-11) - WASHINGTON STREET AND LAMOND AVENUE (CORPORATION STREET)

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Larson seconded by Council Member Miller to receive citizens' comments concerning the closing of a 22,416± square-foot portion of Washington Street and Lamond Avenue (Corporation Street); and

To adopt the "City of Durham Order Permanently Closing 22,416± Square Feet of Washington Street and Lamond Avenue (Corporation Street)" was approved at 9:30 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

Ordinance #11627

SUBJECT: RESOLUTION HONORING THE LIFE AND WORK OF DR. YORK DAVID GARRETT, JR.

MOTION by Council Member Larson seconded by Council Member Miller to direct the City Clerk to draft a resolution honoring the life and work of Dr. York David Garrett, Jr. was approved at 9:30 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

SUBJECT: RESOLUTION MEMORIALIZING MR. GEORGE WILLIAM FRAZIER

MOTION by Council Member Larson seconded by Council Member Miller to direct the City Clerk to draft a resolution memorializing Mr. George William Frazier was approved at 9:30 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

There being no further business to come before the Council, the meeting was adjourned at 9:30 p.m.

D. Ann Gray

Margaret M. Bowers, CMC

Deputy City Clerk

City Clerk